IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
WRIT PETITION NO.5763 OF 2006
with
WRIT PETITION NO.5766 OF 2006

M/s.Teej Impex Pvt. Ltd. .. .. Petitioners
v/s.
Union of India & ors. .. .. Respondents

Mr.Madhur R. Baya with Mr.Vikram Nankani for petitioners.

Ms.S.V. Bharucha i/by Mr.H.P.Chaturdevi for respondents.

CORAM : H.L. GOKHALE &
J.P. DEVADHAR, JJ.

DATED : 12th October 2006

P.C. :

1. Heard the learned Counsel for the parties.

2. The petitioners in both these matters are importer of edible oil. The oil imported by the petitioners was tested by the Central Food Laboratory at Pune and was not found to be conforming to the expectation. It is, therefore, that both these Petitions are filed seeking writ of mandamus to direct the respondents to permit the clearance of the goods subject to re-processing thereof.

3. Although there are various submissions to canvass, Mr.Nankani appearing for the petitioners

has relied upon a clearance of the consignment of another importer viz. M/s.Shankh Impex Pvt.Ltd. and M/s.Ruchi Soya Industries Ltd. The oil imported by them was permitted to be re-processed by the Port Authorities at Chennai, Calcutta and Kandla, respectively. This is referred to in petitioners'letter dated 5th June 2006. Though the exact clearance orders do not appear to be annexed to that representation, one such order of clearance in the case of M/s.Shankh Impex Pvt. Ltd. dated 10th May 2006 is annexed to this representation.

4. Mr.Nankani submits that the orders have been passed by this Court as well as by the Calcutta High Court directing re-testing and re-processing. The respondents on the other hand contend that these orders cannot be used for continuously importing sub-standard oil and getting it processed. In any case since the petitioners have submitted that the Port Authorities themselves have permitted such clearance, Mr.Nankani submitted that the petitioners would like to make one more representation to the Commissioner of Customs (Imports), JNCH giving all the particulars. He, therefore, seeks to withdraw both these Petitions.

The authorities concerned may seek further information from the other Port Authorities and it will be open for them to pass appropriate orders.

5. Mrs.Bharucha appearing for the respondents has pointed out that under the Prevention of Food Adulteration Act, 1954 and the rules thereunder, there is no provision for re-testing. As against this submission, Mr.Nankani has pointed out that a Single Judge of the Delhi High Court has directed such re-testing in the case of **Magma (India) vs. Union of India reported in 2005 (189) E.L.T. 261 (Del.)**. It will be for the authorities concerned to examine the matter in all respects and then pass appropriate orders.

6. Both these Petitions are dismissed as withdrawn with liberty to represent.

7. The authorities will take a decision as expeditiously as possible but after examining as to in what circumstances the clearances were granted by the Port Authorities at Chennai, Calcutta and Kandla.

(H.L. GOKHALE, J.)

(J.P. DEVADHAR, J.)